



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

BY FIRST CLASS MAIL AND FACSIMILE (202) 654-9150

SEP 17 2013

Brian G. Svoboda, Esq.
Perkins Coie, LLP
700 13th Street, N.W., Suite 600
Washington, DC 20463

RE: MUR 6647
Congressman Charles A. Wilson
Friends of Charlie Wilson and
Angela Hatfield in her official capacity as
treasurer

Dear Mr. Svoboda:

On September 19, 2012, the Federal Election Commission notified your clients, Congressman Charles A. Wilson and Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act"). On September 10, 2013, the Commission found, on the basis of the information provided in the complaint and by your clients, that there is no reason to believe that Charles A. Wilson and Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer (the "Committee") violated 2 U.S.C. § 441a(f) by accepting excessive contributions. Additionally, the Commission dismissed allegations that the Committee violated 2 U.S.C. §§ 434(a)(6) and (b)(2)(G) by failing to properly report contributions received by the campaign in 2012 and the source of funds for a loan that the candidate made to the Committee in 2006, and closed the file in this matter. The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003). If you have any questions, please contact Camilla Jackson Jones, the attorney assigned to this matter, at (202) 694-1650.

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Sincerely,

A handwritten signature in black ink, appearing to read 'Mark D. Shonkwiler', followed by a long horizontal line extending to the right.

Mark D. Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Charles A. Wilson

MUR: 6647

Friends of Charlie Wilson and Angela Hatfield,
in her official capacity as treasurer

I. INTRODUCTION

This matter involves allegations that Charles A. Wilson and his authorized committee, Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer (the "Committee"), violated 2 U.S.C. § 441a(f) by accepting an excessive contribution from Sheet Metal Workers' International Association PAC ("Sheet Metal Workers' PAC"). The Complaint also alleges that the Committee violated 2 U.S.C. §§ 434(a) and (b) by failing to properly report contributions it received during the 2012 election cycle, including failing to timely file required 48-hour notices and failing to properly report the source of a loan that the Committee received from the candidate in its 2012 April Quarterly Report.

The available information indicates that the Committee did not accept an excessive contribution from Sheet Metal Workers' PAC, and timely filed the 48-hour notice regarding that contribution. The Committee, however, failed to timely file 48-hour notices for contributions from two individuals and failed to indicate on its Schedule C of the 2012 April Quarterly Report that the source of funds for a 2006 loan the candidate made to the Committee was "personal funds."

The Commission found no reason to believe that Charles A. Wilson and Friends of Charlie Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C. § 441a(f) by accepting excessive contributions. Additionally, the Commission exercised its prosecutorial

1 discretion and dismiss allegations that Friends of Charlie Wilson and Angela Hatfield in her
2 capacity as treasurer violated 2 U.S.C. §§ 434(a)(6) and (b)(2)(G) by failing to properly report
3 contributions received by the campaign in 2012, and the source of a personal loan the candidate
4 made to the campaign in 2006.

5 II. FACTS

6 Charles A. Wilson was the Democratic candidate for Ohio's Sixth Congressional District
7 in the March 6, 2012 Democratic primary election and the general election held on November 6,
8 2012. The Committee has been registered with the Commission as Wilson's principal campaign
9 committee since 2005.

10 On February 16, 2012, the Committee received three contributions for the primary
11 election: a \$5,000 contribution from the Sheet Metal Workers' PAC, and two separate \$2,000
12 contributions from Richard Sokolov and Susan Sokolov, respectively. Resp. at 2, Exs. B and C
13 (Nov. 6, 2012). The Committee filed a 48-hour notice disclosing the contribution from the Sheet
14 Metal Workers' PAC on February 18, 2012. *Id.* at 2, Ex. B. The Committee disclosed the
15 Sokolovs' contributions on February 24, 2012, when it filed an amended 48-hour notice that
16 included the previously reported contribution from the Sheet Metal Workers' PAC, as well as the
17 contributions from Richard and Susan Sokolov.¹ *Id.* at 2, Ex. C. This 48-hour notice did not
18 indicate that it was an amendment to a previously filed notice.² The Committee's only

¹ On March 10, 2012, the Sheet Metal Workers' PAC made a \$5,000 contribution to the Committee's general election campaign, which was properly reported along with the February 16, 2012 primary election contribution in the Committee's 2012 April Quarterly Report. See Resp. at 2 n.1 and Ex. D.

² The form for reporting 48-hour notices includes boxes for the committee to check whether the notice is a new filing or an amendment to a prior filing and requests the date of the earlier filing where appropriate. See Resp., Exs. B and C.

1 explanation for the late disclosure of the Sokolovs' contributions is that the contributions were
2 "newly-discovered." *Id.* at 2.

3 On April 15, 2012, the Committee filed its 2012 April Quarterly Report. The Schedule C
4 attached to that report includes a 2006 loan from the candidate to the Committee but fails to
5 identify the source of the funds used to make the loan. This loan was originally made by Wilson
6 to the Committee on April 18, 2006 in the amount of \$250,000 for his 2006 primary election
7 campaign.³ The Committee's 2006 July Quarterly Report, Schedule C (the first filed report
8 following the loan) states that the loan was made from "Personal funds." Resp., Ex. A. Each of
9 the Committee's subsequent disclosure reports also included the "personal funds" notation on the
10 respective Schedule Cs until the Committee's 2012 April Quarterly Report, which did not
11 disclose the source of the funds used to make the loan.

12 On October 3, 2012, the Reports Analysis Division ("RAD") issued the Committee a
13 Request for Additional Information ("RFAI") regarding the Committee's 48-hour notices for the
14 contribution from the Sheet Metal Workers' PAC and the source of the funds for Wilson's loan
15 to the Committee. The RFAI noted that it appeared that the Committee filed duplicate 48-hour
16 notices on February 18 and 24, 2012, regarding the \$5,000 contribution it received from the
17 Sheet Metal Workers' PAC because the contribution was disclosed only once on the
18 Committee's 2012 April Quarterly Report, Schedule A. The RFAI also indicated that the
19 Committee needed to clarify whether Wilson used personal funds or borrowed money as the
20 source of the 2006 loan he made to the Committee, which was disclosed on its 2012 April
21 Quarterly Report, Schedule C.

³ The Committee made repayments to the candidate in 2006-07 totaling \$58,350. Since then, \$191,650 of the original loan has remained outstanding. Resp., Ex. E.

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1 In response to the RFAI, on October 5, 2012, the Committee filed an Amended 2012
2 April Quarterly Report to clarify that the 2006 loan source was the candidate's personal funds.⁴
3 Resp., Ex. E. The Committee also filed a Form 99 explaining that it had only received one
4 \$5,000 contribution from Sheet Metal Workers' PAC on February 16, and acknowledging that it
5 had included the \$5,000 contribution on its February 24 48-hour notice without identifying that
6 the disclosure was an amendment to the earlier filing. RAD deemed the Committee's
7 submissions to be "adequate responses" to the RFAI. The Committee states in its Response to
8 the Complaint that it has consulted with its external campaign finance reporting vendor to ensure
9 that contributions and loans are properly tracked and reported in the future. Resp. at 2.

10 III. ANALYSIS

11 A. Excessive Contributions

12
13 The Act limits the amount that an individual or a political committee may contribute to a
14 candidate's authorized political committee with respect to an election for federal office. 2 U.S.C.
15 § 441a(a)(1). In 2012, an individual was permitted to make contributions up to \$2,500 per
16 election to a candidate's authorized committee, and a multicandidate committee was permitted to
17 contribute up to \$5,000 per election. 2 U.S.C. § 441a(a)(1)-(2). A candidate and his authorized
18 committee are prohibited from accepting contributions that exceed the Act's contribution limits.
19 See 2 U.S.C. § 441a(f).

20 The Complaint alleges that the Committee accepted an excessive contribution from the
21 Sheet Metal Workers' PAC because it reported two \$5,000 contributions from the PAC, each
22 designated for the primary election. Compl. at 3 (Sept. 17, 2012). The record indicates,
23 however, that the Committee did not accept an excessive contribution from Sheet Metal

⁴ The original 2012 April Quarterly Report, Schedule C lists the loan source as "Charles A. Wilson." The Amended 2012 April Quarterly Report, Schedule C lists the loan source as "Charles A. Wilson PERS FUNDS."

1 Workers' PAC. Rather, the Committee filed duplicate 48-hour notices regarding the Sheet Metal
2 Workers' PAC's single \$5,000 contribution — first reporting the contribution on the February
3 18, 2012 48-hour notice and again on its February 24, 2012 48-hour notice along with the
4 Sokolovs' contributions. The Sheet Metal Workers' PAC's \$5,000 contribution did not exceed
5 the limit set forth in 2 U.S.C. § 441a(a)(1) and therefore did not violate the Act. The Committee
6 properly reported the single \$5,000 contribution on its 2012 April Quarterly Report, Schedule A.
7 See 11 C.F.R. § 104.3(a)(3)(iv).

8 The Commission found no reason to believe that Charles A. Wilson and Friends of
9 Charlie Wilson and Angela Hatfield in her capacity as treasurer violated 2 U.S.C. § 441a(f) by
10 accepting excessive contributions.

11 **B. Reporting**

12 **1. 48-hour Notices**

13 A candidate's principal campaign committee is required to notify the Commission of all
14 contributions of \$1,000 or more received by any authorized committee of the candidate less than
15 20 days, but more than 48 hours before any election in which the candidate is running. 2 U.S.C.
16 § 434(a)(6), 11 C.F.R. § 104.5(f).

17 The Committee failed to timely file 48-hour notices for the Sokolovs' contributions —
18 disclosing the contributions on February 24, 2012, more than eight days after they were
19 received.⁵ The Committee made an additional error by including the previously disclosed \$5,000
20 contribution from the Sheet Metal Workers' PAC on the February 24 notice, without indicating
21 that it was an amendment to the February 16 filing. This duplicate disclosure created confusion

⁵ The Sokolov 48-hour notices were received by the Commission on February 24, 2012, ten days before the primary election on March 6, 2012. Although the Committee filed the 48-notices for the two Sokolov contributions six days after the notices were due, the violations were not referred by RAD for further action.

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as to whether the February 24 filing referenced a new or previously disclosed contribution by the Sheet Metal Workers' PAC.

2. Loans

A candidate may make a loan to his authorized campaign committee, but the Committee must disclose the source of those funds. 2 U.S.C. § 434(b)(2)(G); 11 C.F.R. § 104.3(a)(3)(vii)(B), (4)(iv). The Committee failed to properly itemize the source of the candidate's 2006 loan on its 2012 April Quarterly Report. When a candidate makes a personal loan to his authorized committee, the Act and Commission regulations require that the Committee disclose the source of those funds on the Schedule C of each report filed while the loan remains outstanding. *See id.* While the Committee had previously disclosed that the source of the loan was personal funds on the first report filed at the inception of the loan and every report thereafter, the Committee failed to disclose that the source of the loan was personal funds on the Schedule C of its 2012 April Quarterly Report.

3. Conclusion

As a result of these reporting errors, the Committee violated 2 U.S.C. §§ 434(a)(6) and (b)(2)(G). However, the Commission exercises prosecutorial discretion and dismissed these violations. Respondents cooperated with the Commission and acted appropriately in addressing these violations within a few days of being notified by RAD. Two days after the RFAI date, the Committee filed an amended 2012 April Quarterly Report and filed a Form 99 explaining its error in filing the amended 48-hour notice — responses that were deemed “adequate” by RAD. Additionally, the candidate's loan to the Committee was properly disclosed when it was made in 2006, and thus it has been a matter of public record since the 2006 July Quarterly Report. Although the Sokolov 48-hour notices were six days late, the notices were still received more

1 than nine days before the primary election. It is also noteworthy that, according to RAD, the
2 Committee had a good compliance record during the 2012 election cycle. Finally, the candidate
3 has passed away since this matter was activated, and the Committee is now non-operational.

4 Based on these circumstances, the Commission exercised prosecutorial discretion and
5 dismissed the allegations that Friends of Charlie Wilson and Angela Hatfield in her capacity as
6 treasurer violated 2 U.S.C. § 434(a)(6) by failing to properly report campaign contributions it
7 received in 2012, and violated 2 U.S.C. § 434(b)(2)(G) by failing to disclose the source of a loan
8 it received from the candidate on its 2012 April Quarterly Report. *See Heckler v. Chaney*, 470
9 U.S. 821 (1985).⁶

⁶ See also MUR 6130 (Carter) (EPS dismissal of untimely filed 48-hour notices); MUR 6171 (Cooney) (dismissing failure to file 48-hour notices); MUR 6102 (Oliver) (dismissing allegations that candidate failed to properly note whether the source of her loan to her committee was personal funds); MUR 5979 (Oberweis) (dismissing failure to properly report candidate's loan to Committee that had previously been correctly reported).